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October 21, 2019

Michael Lopes-Serrao
Superintendent
Parkrose School District
10636 N.E. Prescott Street
Portland, Oregon 97220

Re: Release of Parkrose High School surveillance video

Dear Superintendent Lopes-Serrao,

On October 18, 2019, my office released surveillance video from the May 17, 2019 incident at Parkrose High School. The release was in response to a request under the Oregon Public Records law. We did not notify or consult with you prior to this release. We should have but did not. I sincerely apologize for that lapse. That you had to investigate and question why this video was released added unnecessary stress and concern to an episode that I recognize was very traumatic for students and staff, as well as the entire Parkrose community.

This office released the video because the provisions of FERPA, which as you point out, prohibit the Parkrose School District from releasing certain materials, do not apply to materials in the possession of law enforcement working on behalf of a school district. This is necessary because police gather and provide material to ensure a complete picture is presented for consideration of criminal prosecution by this office. When, as here, a criminal charge does result from an incident, we are legally obligated by Oregon law to disclose that material as part of ongoing discovery in the criminal case. The official record of a criminal case is subject to a different set of restrictions on its release than educational records in the custody of a school.

This is not to say that it is the policy of this office that school district materials that become part of a criminal prosecution will always be subject to public release. To the contrary, the Oregon Public Records law exempts from disclosure information that would unreasonably invade someone's privacy unless the public interest in release outweighs the relevant privacy interests by clear and convincing evidence. In the vast majority of cases, this will cause this office to deny release. This particular case was unique due to the intense public interest in the conduct of all involved and the fact of a fully adjudicated criminal prosecution. On balance, we determined that this high standard had been met.

Again, this should have been discussed with you and your staff prior to release. I apologize for the oversight and would be happy to speak further with you about it if you would like.

Very truly yours,

ROD UNDERHILL

District Attorney

Multnomah County, Oregon